

**VILLAGE OF TUXEDO PARK  
BOARD OF TRUSTEES MEETING  
APRIL 18, 2018  
7:00 P.M.**

Present: Mayor McFadden  
Deputy Mayor Alan McHugh  
Trustee Allen Barnett  
Trustee Paul Gluck  
Trustee John Moon

Clerk: Deborah Matthews

Village Attorney: Brian Nugent, Esq.

Attendees: Meg Vaught, Sally Sonne, Michele Lindsay, Lili Neuhauser, Ellen Gluck, Mary Graetzer, Gary Pompan, Sue & Kevin Niblo, Fred Rella, Susa Goodfellow, Richard Witte, Henricus Vanderlee, Mary Jo Guinchard, et al.

Mayor McFadden called the meeting to order at 7:00 p.m. Roll call was taken and Mayor McFadden led the Pledge of Allegiance.

**Police Booth**

Mayor McFadden began by reiterating that he is in full support of rebuilding the booth at the front gate. The cost has been an issue as there are no funds allocated. Options are to borrow the money or have money raised by private citizens. He asked the Trustees for their view.

Trustee Barnett is in favor and feels a booth is both symbolic and unifying for the Village. However, he has three concerns: safety, the Police agreeing to it, and financing.

Trustee Gluck stated that before a meaningful discussion can be held on rebuilding, a feasibility study should be done and financing options researched. The best option would be private donations.

Trustee Moon stated that he is in favor of a drive-thru ATM type booth. If the residents want a booth, then he would support it. The budget is tight and he is concerned with the cost. Private donations would be the best solution.

Deputy Mayor McHugh stated that the booth survey was fundamentally flawed because there were no costs associated with it. He is not in favor of a manned booth but would support an ATM type booth. There are other Village issues that need to take priority.

**Mayor's Comments**

Tuxedo Park School had been scheduled to attend today's Arbor Day celebration at the Race Track. There was a concern with having the children in an area where there may be ticks. The

Village insurance agent was contacted and he advised that the school should have coverage for the outing. Mayor McFadden spoke to the headmaster and they came up with alternatives whereby the children's participation event at the Race Track was cancelled for today.

In regard to Local Law Introductory D3 of 2018 (Tax Cap Override), the Village received letters from residents asking not to go above the cap. The proposed law doesn't mean we are going above the cap. The public hearing held on Monday, April 16<sup>th</sup> was productive with excellent resident input.

The Board took a conservative approach to the budget, line by line. They tried to put everything in it without kicking anything down the road. The police budget was reduced after it was presented, the DPW budget was cut back, and the proper reserves will remain.

### **Continuation of Public Hearing from 4/16/18 - Local Law Introductory D3 of 2018 (Tax Cap Override)**

A motion was made by Mayor McFadden, seconded by Trustee Gluck to open the public hearing at 7:15 p.m. The vote was 5-0 in favor.

#### Speakers:

Sally Sonne, Gary Pompan, Fred Rella, Dena Steele,

#### Paraphrased Comments:

- \*If you're confident with the budget, why pass a law to go over the tax cap.
- \*How would you deal with the budget if there was an emergency.
- \*Against passing the law to increase the tax cap.
- \*The tax cap is typical protocol. If the tax cap is exceeded, how will this affect the Village bond rating.

#### Paraphrased Responses:

- \*Hearings on the law are held first, then on the budget.
- \*If an emergency occurs after the budget is adopted, then the Village can use fund from surplus.
- \*The public hearing on the budget closes tonight, but can be continued for written comments not past April 20<sup>th</sup>.

A motion was made by Mayor McFadden, seconded by Deputy Mayor McHugh that the public hearing on Local Law Introductory D3 of 2018 (Tax Cap Override) be continued on April 27, 2018 at 8:00 a.m.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a vote of 5-0.

### **Continuation of Public Hearing from 4/16/18 – 2018-2019 Tentative Budget**

A motion was made by Trustee Gluck, seconded by Mayor McFadden that the public hearing be opened at 7:35 p.m. The vote was 5-0 in favor.

## Speakers:

Dena Steele, Jim Hays, Kevin Niblo, Susan Goodfellow, Richard Witte, Gary Pompan, Lili Neuhauser, Henricus Vanderlee

## Paraphrased Comments:

- \*How is the \$120K allocated for in the Lake Management category in the Water Fund.
- \*Without a fish study, don't know if fish are effective.
- \*There is no long term plan.
- \*What is the \$26,200 in category 1355.4A.
- \*Why not use the Town assessor.
- \*The price in the 1990's for a reassessment was very high at that time.
- \*What duties are the consultant performing and what is the salary.
- \*John is talented and during the period when he wasn't here last summer, some houses could suddenly be seen. There are some rules in place and some are overbearing.
- \*Village at a critical mass and value homes go down.
- \*Support Sally's letter. Set up task force of residents. At some point taxes are going up and they can't be deducted.
- \*The DPW should be tackled first given its proximity to the lake.
- \*The Village is exclusive with no growth. Change zoning laws to smaller zoning to make it easier to live here.

## Paraphrased Responses:

- \*Intend to consult with the Lakes Committee and Lakes Manager.
- \*Identify and quantify problem. Get input from the lakes manager and CSLAP reports.
- \*The \$26,200 is best guestimate from Orange County to hire professional to do assessments.
- \*The assessment roll has been posted on the website for the past couple of years, response to an RFP for an assessor hasn't been robust.
- \*Will make consultant a full time position when the financial report is received. A civil service position is being formulated in conjunction with Orange County civil service.
- \*The building inspector position is a civil service position, the balance of the consultant duties include interacting with the boards, applicants and infrastructure projects for the Village, i.e. refurbishment of the water storage tanks, water filtration upgrades, booth, etc..
- \*Shared services are being looked into.
- \*Need community input and dialog.
- \*Not ready for ¼ acre zoning.
- \*A Village-wide reassessmet will be one concrete advancement.

A motion was made by Trustee Gluck, seconded by Mayor McFadden that the public hearing be closed and that written comments will be received until 4:00 p.m. on April 20<sup>th</sup>.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

**Capital Projects Reports**

Deputy Mayor McHugh gave an overview of Mr. Ledwith's construction report for April which included: A balloon test for the Verizon cell tower antenna on Ridge Road is in the process of being scheduled; one water storage tank on Ridge Road has been cleaned and repaired and awaiting Health Department approval, the second tank will be done when the first tank is in service; repairs to water filter #2 are almost complete and it should be in service by the end of the month.

**Wee Wah Dam**

Deputy Mayor McHugh reported that he and Trustee Gluck have bi-weekly meetings with the dam engineer and the contractor. The dam is 85% complete. Work is beginning on the curved wall of the auxiliary spillway. The DEC did an inspection this week. When the DEC does a final inspection and sign off, then the lake can start to be filled. CHA has requested an additional work authorization.

A motion was made by Deputy Mayor McHugh, seconded by Mayor McFadden that the Board authorize EWA #9 for \$24,500 for dam engineering and management oversight by CHA, with the work order to be in the same substantial format.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

**Police Report**

Chief Melchiorre gave a synopsis of March Police activities. He further stated that he met with Deputy Mayor McHugh and a representative of a license plate reader company. They are awaiting a proposal of the cost. The reader would allow resident plates to be programmed and allow the gate to lift automatically for resident plates mainly at the south gate. The front gate would not be as beneficial because of the traffic, especially weekday mornings. The reader would be tied into state-wide and national databases.

**Risk Assessment/Village Litigation Summary**

At the request of Mayor McFadden, Attorney Nugent gave a summary of litigation not covered by the Village's insurance. They include:

- \*Sean Madden-Article 78 regarding denial of FOIL requests in June 2017.
- \*Mary Jo and Claude Guinchard-Article 78 regarding a small claims assessment review.
- \*Robert Zgonena & Claudio Guazzoni-Summons & Complaint claiming Mayor McFadden signed a consultant agreement with John Ledwith without Board authorization. (Proof of authorization was submitted to the Plaintiffs attorney with no communication from him.)

Mr. Nugent added that everything just disclosed concerns public documents that have been filed with the courts and are available under FOIL.

**Code Red**

Mayor McFadden stated that in prior years, the Mayor would make the Code Red announcements. He has delegated this responsibility to the Police.

**Public Comments**

Speakers:

Mary Graetzer, Henricus Vanderlee, Dena Steele, Michele Lindsay, Meg Vaught

Paraphrased Comments:

\*Don't put chemicals in the drinking water.

\*Is there evidence that the use of divers for Milfoil removal is working.

\*Red foxes are seen in the day time.

\*Town put notice in Photo News seeking people to serve on the various boards of the Town. Encourage Village residents to apply and get more involved in the Town issues.

\*The school board budget workshops were easy to follow and open.

\*Legally the Village is a part of the Town, but the Town is not a part of the Village.

Paraphrased Responses:

\*Solitude Lake Management questions the long-term effectiveness of suction harvesting due to cost and fragmentation.

**OLD BUSINESS****EAF & Lead Agency Status - Local Law Introductory D1 and D2 of 2018**

*Local Law Introductory D1 of 2018*

A motion was made by Mayor McFadden, seconded by Trustee Moon that the Board of Trustees declare itself lead agency under the State Environmental Quality Review Act and determine the significance of the action as stated in the following resolution:

**WHEREAS**, the Village of Tuxedo Park Board of Trustees ("Village Board") seeks to adopt a proposed Local Law amending Part II, Chapter 100 (Zoning), § 100-2 (Definitions) Subsection B of the Village Code concerning the regulation of the use of residence buildings within the Village for other than permanent residence purposes and advertising of residence buildings; and

**WHEREAS**, the proposed local law is an amendment to a use in the Village Zoning Code affecting more than twenty-five (25) acres, and is thereby determined to be a Type I action; and

**WHEREAS**, the Village Board is the sole agency involved in the consideration of the proposed Local Law; and

**WHEREAS**, the Village Board desires to assume Lead Agency status and conduct a review to determine the significance of the proposed Local Law in accordance with Article 8 of the Environmental Conservation Law of the State of New York, and the regulations promulgated thereunder at 6 NYCRR 617; and

**WHEREAS**, a public hearing was noticed and held by the Village Board on February 21, 2018, at 7:00 P.M. for all person interested in presenting oral or written comments concerning the proposed Local Law; and

**WHEREAS**, the Village Board has received written comments from persons interested in commenting on the proposed Local Law.

**NOW, THEREFORE, BE IT RESOLVED** that:

Section 1. The above “WHEREAS” clauses are hereby incorporated by reference as though set forth in full herein.

Section 2. The Village Board determines that the proposed action is a Type I action and will require review pursuant to the State Environmental Quality Review Act (“SEQRA”), and the governing regulations promulgated thereunder.

Section 3. The Village Board hereby declares Lead Agency status pursuant to SEQRA in connection with a Local Law entitled “A Local Law Amending The Village Code Concerning The Regulation of The Use of Residence Buildings Within The Village for Other Than Permanent Residence Purposes and Advertising of Residence Buildings,” and the Village Board will therefore determine if the proposed Local Law will have a significant adverse environmental impact.

Section 4. The Village Board hereby directs the Village Clerk and any other officer or employee, as directed by the Village Mayor, to take any action necessary to carry out the provisions of this Resolution.

Section 5. This Resolution shall be effective immediately.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

*Local Law Introductory D2 of 2018*

A motion was made by Mayor McFadden, seconded by Trustee Moon that the Village Board of Trustees declare itself lead agency under the State Environmental Quality Review Act and determine the significance of the action as stated in the following resolution:

**WHEREAS**, the Village of Tuxedo Park Board of Trustees (“Village Board”) seeks to adopt a proposed Local Law amending Chapter 100 (Zoning) of the Village Code concerning the regulation of devices in public right-of-ways and easement (the “Local Law”); and

**WHEREAS**, the proposed Local Law is an amendment to a use in the Village Zoning Code affecting more than twenty-five (25) acres, and is thereby determined to be a Type I action; and

**WHEREAS**, the Village Board is the sole agency involved in the consideration of the proposed Local Law; and

**WHEREAS**, the Village Board desires to assume Lead Agency status and conduct a review to determine the significance of the proposed Local Law in accordance with Article 8 of the Environmental Conservation Law of the State of New York, and the regulations promulgated thereunder at 6 NYCRR 617; and

**WHEREAS**, a public hearing was noticed and held by the Village Board on February 21, 2018, at 7:01 P.M. for all persons interested in presenting oral or written comments concerning the proposed Local Law; and

**WHEREAS**, the Village Board has received written comments from persons interested in commenting on the proposed Local Law.

**NOW, THEREFORE, BE IT RESOLVED** that:

Section 1. The above “WHEREAS” clauses are hereby incorporated by reference as though set forth in full herein.

Section 2. The Village Board determines that the proposed Local Law entitled the Regulation of Devices in Public Right-of-Ways and Easements is a Type I action and will require review pursuant to the State Environmental Quality Review Act (“SEQRA”), and the governing regulations promulgated thereunder.

Section 3. The Village Board hereby declares Lead Agency status pursuant to SEQRA in connection with a Local Law entitled “Regulation of Devices in Public Right-of-Ways and Easements,” and the Village Board will therefore determine if the proposed Local Law will have a significant adverse environmental impact.

Section 4. The Village Board hereby directs the Village Clerk and any other officer or employee, as directed by the Village Mayor, to take any action necessary to carry out the provisions of this Resolution.

Section 5. This Resolution shall be effective immediately.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

### **Schedule Re-opening of Public Hearings**

A motion was made by Mayor McFadden, seconded by Deputy Mayor McHugh that the public hearing on Local Law Introductory D2 of 2018 be reopened at the regular monthly BOT meeting on May 16, 2018 at 7:00 p.m.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

A motion was made by Mayor McFadden, seconded by Trustee Moon that the public hearing on Local Law Introductory D1 of 2018 be reopened at the regular monthly BOT meeting on May 16, 2018 at 7:01 p.m.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

### **NEW BUSINESS**

#### **Discuss - Property Damage by Village Snow Plows**

Deputy Mayor McHugh, as liaison to the DPW, is collecting all the information and working on a repair plan.

A brief discussion was held.

**Discuss Police Computer/Printer**

Trustee Gluck stated that two computers in the Police Department need to be replaced as soon as possible as one is not working and the other is close to not working. They are also requesting a wireless printer to communicate with the computers. There is no money in the Police budget, so the purchase will be allocated from another category.

A motion was made by Deputy Mayor McHugh, seconded by Mayor McFadden that the Board approve the purchase of computers and a printer for the Police department at a cost of \$2,500 and that the expense be temporarily allocated from budget category 3121.5A.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

**Town of Tuxedo Recreation Request**

Trustee Gluck, as liaison to the Wee Wah Beach Club, stated that the Town of Tuxedo is requesting the use of the Wee Wah Beach area for their summer recreation program. The Beach Club has the license agreement with the Village and any requests must be approved by the Beach Club and the Village. The Town Recreation will then contract with the Beach Club, follow the Club rules and regulations, and provide an insurance certificate.

A discussion was held regarding the April 9, 2018 letter of request from the Town Recreation Department.

Also discussed were boat stickers and the steam cleaning of boats before they are put into any of the Village lakes.

A motion was made by Trustee Gluck, seconded by Mayor McFadden that the Board approve the April 9, 2018 request of the Town of Tuxedo Recreation Department to use the Wee Wah Beach area for their summer program which includes using the beach area from July 2<sup>nd</sup> through August 10<sup>th</sup>, permission to allow buses to use the Village roads, and to allow kayaking on Wee Wah Lake, subject to obtaining boat permit stickers.

Vote of the Board: 3 ayes, 1 nays (McHugh), 1 abstention (Barnett)

The motion was passed by a 3-1-1 vote.

**Announce-Bulk Trash Pick Up Day**

Bulk Trash Pickup Day in the Village will be Saturday, May 19th beginning at 8:00 a.m.

**Award Bid for DPW Surplus Dump Truck**

A motion was made by Mayor McFadden, seconded by Deputy Mayor McHugh that the Board award the sole bid received for the DPW Surplus 2008 Dump Truck to *A Better Deal Inc.*, Dover N.J., in the amount of \$10,001 with payment to be made to the Village by a certified bank check.  
Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

**Weston & Sampson Consulting Proposal for I&I**

A motion was made by Mayor McFadden, seconded by Deputy McHugh that the Board approve the proposal of Weston & Sampson for engineering consulting services relative to the Village's water and wastewater infrastructure improvement planning on an as needed 'on call' basis for time and expenses at the rates, terms and conditions as specified in the schedule provided.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

**Purchase of Wood Chipper as Approved by the Executor of the Salm Estate**

A motion was made by Mayor McFadden, seconded by Deputy Mayor McHugh that the Board be authorized to seek bids or purchase under NYS bid a wood chipper for the DPW as stated in the following resolution:

**WHEREAS**, the Estate of Salm donated \$100,000.00 to the Village for the purpose of clearing timber and related landscape management; and

**WHEREAS**, Village desires to purchase a wood chipper consistent with such purposes at an approximate cost of \$51,000.00; and

**WHEREAS**, the Village is required to issue a Competitive Bid for such purchase under General Municipal Law Section 103.

**NOW THEREFORE BE IT RESOLVED** that:

Section 1. The above "WHEREAS" clauses are incorporated herein as if set forth in full.

Section 2. The Mayor and Clerk are authorized to execute any documents required to issue a Competitive Bid for the purchase of the aforesaid wood chipper.

Section 3. This Resolution shall be effective immediately

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

**Appoint Election Inspectors**

A motion was made by Mayor McFadden, seconded by Trustee Moon that for the June 19, 2018 Village Election, the Board appoint Jay Bohnel and Kurt Haug as voting machine operators,

Desiree Hickey and Diane Sanford as table inspectors, and Jean Haug as an alternate, all at the rate of \$225 for the day.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

**Invasive Species (Phragmites)**

A motion was made by Trustee Gluck, seconded by Mayor McFadden that the Board authorize the Village Code Enforcement Officer to prepare a mitigation plan for the management of non-native Phragmites and restoration of Village Lakes and Ponds as stated in the following resolution:

**WHEREAS**, the Village Board is charged with the authority to protect and regulate the watershed of Tuxedo Lake and the two secondary reservoirs pursuant Section 97-15 of the Village Code; and

**WHEREAS**, Section 65-1 the Village Code also recognizes that “[t]he unreasonable, uncontrolled and unnecessary interference with and disturbance of these bodies of water could create hazards to the health, safety and welfare of the persons who are dependent upon these bodies of water for domestic water-supply purposes”; and

**WHEREAS**, non-native phragmites are an invasive species that pose threats to the native vegetation and diversity needed to support a thriving ecosystem surrounding Tuxedo and Wee Wah Lake; and

**WHEREAS**, if not managed and controlled, non-native phragmites can drastically change the ecosystem by altering hydrology, local topography, decrease salinity in brackish wetlands, and increase the potential for fires; and

**WHEREAS**, the Village Board hereby finds that the presence of non-native phragmites are a potentially contaminating condition that must be regulate and it is in the best interest of the Village and its residents to regulate them by developing a mitigation plan for the management of non-native phragmites and restoration of Village Lakes and Ponds; and

**WHEREAS**, said mitigation plan shall be developed by the Code Enforcement Officer along with the residents of the Village; and

**WHEREAS**, said mitigation plan shall be subject to review and approval of the Village Board.

**NOW THEREFORE BE IT RESOLVED** that:

Section 1. The above “WHEREAS” clauses are incorporated herein as if set forth in full.

Section 2. The Village Board hereby finds that it is in the best interest to prepare a mitigation plan for the management of non-native phragmites and restoration of Village Lakes and Ponds.

Section 3. The Village Board hereby directs the Code Enforcement Officer to develop said mitigation plan together with the residents of the Village of Tuxedo Park subject to review and approval of the Village Board.

Section 4. This Resolution shall be effective immediately.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

### **Purchase and Financing of New Dump Truck**

A motion was made by Deputy Mayor McHugh, seconded by Mayor McFadden that the Board authorize the purchase of a 2019 Ford F550 Dump Truck in the amount of \$55,200.63 contingent upon the sale of the surplus 2008 Chevrolet K3500 Dump Truck in the amount of \$10,000.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

### **Renew Accountant Contract**

A motion was made by Mayor McFadden, seconded by Trustee Gluck that the Board approve the renewal of the contract with Cooper Arias for accounting services for the Village for the fiscal year 2018-2019.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

### **Police Commissioner Appointment**

Mayor McFadden stated that under NYS law there are several options for Police Commissioner(s) in Villages, such as the Mayor appointing himself or another person, or appointing the whole Board. Thus, Mayor McFadden declared himself as Police Commissioner for the Village.

### **School Budget**

Meg Vaught stated that this year's school budget has been reduced by 5%. Also \$400K will be given back to taxpayers over the next 7 years (due to tax cap restrictions) because expenditures were overstated in previous budgets.

A brief discussion was held.

### **Sewer**

Mayor McFadden, in referring to those properties not on Village sewer, was informed that a Village cannot establish a sewer district. However, a Village can establish an assessment of who pays what portion of the costs and then allocate accordingly. Currently, operating expenses, salaries, and debt service is about 8% of the total General Fund budget.

Attorney Nugent further stated that a unit-based system would exclude the costs from the tax cap calculation.

This topic will be pursued at a later date.

**Audit of Claims**

Bills in the amount of \$91,024.63 in the General Fund, claim numbers 4-1 to 4-73; \$13,394.36 in the Water Fund, claim numbers W4-1 to W4-13; and \$189,932.94 in Capital Projects, claim number CP4-1 to CP4-2.

**Adjourn to Executive Session**

A motion was made by Deputy Mayor McHugh, seconded by Trustee Moon that the Board adjourn to executive session at 9:47 p.m. to discuss possible litigation in regard to a seasonal water meter account.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

**Exit Executive Session and Re-Open Regular Session**

A motion was made by Trustee Gluck, seconded by Mayor McFadden that the Board exit executive session and re-open regular session at 10:00 p.m.

Vote of the Board: 5 ayes, 0 nays

The motion was passed by a 5-0 vote.

**Adjournment**

A motion was made by Mayor McFadden, seconded by Deputy Mayor McHugh that the meeting be adjourned at 10:00 p.m. The vote was 5-0 in favor.

Respectfully submitted,

Deborah A. Matthews  
Village Clerk-Treasurer